

REGULATORY UPDATE FOR SEPTEMBER 14 (WEEK OF SEPTEMBER 7)**California Public Utilities Commission****New Proposed Decisions and Draft Resolutions¹:**

Draft Resolution E-5059. The Commission issued a revised draft of Resolution E-5059. See Agenda Item 20, below, for a summary.

Voting Meetings:

The Commission held a voting meeting on September 10, 2020. The agenda included the following items:

Item 2: Draft Resolution UEB-400. This Resolution would establish a citation program under the administration of the Director of the Consumer Protection and Enforcement Division to enforce compliance with the consumer protection measures authorized by the California Public Utilities Commission for net energy metering customers. This citation program is applicable to Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company, providing grid interconnection services for residential rooftop solar customers taking service under the CPUC's NEM tariff. This citation program does not cover interconnection applications for new home construction. **Held by Staff to 10/22.**

Item 3: Draft Resolution ALJ-382. This Resolution would deny San Jose Clean Energy's appeal of Citation No. E-4195-0052 by the California Public Utilities Commission's Consumer Protection and Enforcement Division, which fined San Jose Clean Energy for failing to procure certain of its 2019 system and flexible resource adequacy (RA) obligations. San Jose Clean Energy claimed that it had diligently attempted to procure the required to obtain the required RA resources, and therefore the penalty was inappropriate. The Resolution finds that the required RA resources were available to San Jose Clean Energy, though at unfavorable terms, and therefore denies the appeal. **Approved.**

Item 12: A.19-10-001 (SCE Surplus Energy Transaction with BPA). On October 1, 2019, SCE filed an application requesting approval to extend, for an additional year, a two-year contract with Bonneville Power Administration (BPA) for the purchase of five MW of surplus electricity delivered around the clock. SCE described the surplus electricity as carbon-free hydroelectric power made available through incremental energy efficiency savings in BPA's service area. This proposed decision would deny approval, finding that the proposed transaction is a standard surplus power purchase contract and not an inter-regional energy efficiency transfer. Moreover, the purchased power carries an emission factor, and is not carbon-free.

¹ Per Commission Rules of Practice and Procedure, Rule 14.3, Comments on proposed decisions are due 20 days after issuance of the proposed decision, and reply comments are due five days thereafter. Comments on Draft Resolutions are due twenty days after the draft resolution appears in the Commission's daily calendar, per Rule 14.5.

Finally, the contract does not provide sufficient policy benefits to justify its costs. **Held by President Batjer to 9/24.**

Item 20: Draft Resolution E-5059: This Resolution would adopt with modifications proposed tariff revisions by Pacific Gas and Electric Company Advice Letter 5354-E, Southern California Edison Company Advice Letter 3840-E, and San Diego Gas & Electric Company Advice Letter 3257-E to implement Reentry Fees and Financial Security Requirements for Community Choice Aggregators. Reentry fees include investor owned utility administrative costs and procurement costs resulting from a mass involuntary return of CCA customers to IOU service, and the financial security requirements must cover those potential costs. **Held by Staff to 10/8.**

California Independent System Operator

Upcoming Meetings and Deadlines:

Pseudo-Ties of Shared Resources, Draft Tariff Language and Final Proposal. The California ISO will hold a public stakeholder web conference on Sept. 1, 2020, to discuss the draft tariff language and final proposal for the Pseudo-Ties of Shared Resources initiative. Comments are due September 15.

Extended Day-Ahead Market. In response to stakeholder requests, the California ISO has extended the deadline to submit written comments on the Extended Day-Ahead Market bundle 1 straw proposal from Sept. 10, 2020 to Oct. 8, 2020.

Resource Adequacy Enhancements. The California ISO will hold public stakeholder working group calls on Sept. 14, 15, and 17, 2020, to further discuss various aspects of the Resource Adequacy Enhancements initiative. Comments are due October 1.

FERC Order 831 - Import Bidding and Market Parameters, Draft Tariff Language Posted. The California ISO has scheduled a public stakeholder call on Sept. 17, 2020, to discuss the draft tariff language for the FERC Order 831 - Import Bidding and Market Parameters initiative. Comments are due Sept. 24, 2020. In addition, a revised final proposal has been posted.

California Energy Commission

Enforcement Procedures for the RPS for Publicly Owned Electric Utilities

As of September 8, 2020, the Commission has removed this matter from its agenda for the September 9, 2020 business meeting.

The Commission had rescheduled to September 9 the Adoption Hearing regarding the Modification of Regulations Specifying Enforcement Procedures for the Renewables Portfolio Standard for Local Publicly Owned Electric Utilities and the associated Negative Declaration. The hearing was originally scheduled to be held on August 12, 2020.

Minnesota Public Utilities Commission

On September 11, 2020, Minnesota legislators convened for a fourth special session, setting a state record for the most special sessions held in a calendar year. The Senate took up three commissioner nominations, and confirmed Minnesota Public Utilities Commission (“Commission”) Commissioner Joe Sullivan (referenced in previous updates related to the Commission’s COVID-19 economic development docket). The Republican majority (joined by two Democrats), however, voted to reject the appointment of Department of Commerce (“Department”) Commissioner Steve Kelley. Kelley has been criticized for his handling of various matters, including those relating to energy policy.

Utah Public Service Commission

Upcoming Hearings Regarding Significant Matters

- September 29, 2020 to October 9, 2020 – Hearing on Phase II of Rocky Mountain Power’s Application to Establish Export Credits for Customer Generated Electricity
- October 29, 2020 to October 30, 2020 – Hearing on Phase I (Cost of Capital) of Rocky Mountain Power’s General Rate Case
- November 2, 2020 – Hearing on Rocky Mountain Power’s Depreciation Docket
- November 3, 2020 to November 6, 2020 – Hearing on Phase I (Revenue Requirement) of Rocky Mountain Power’s General Rate Case
- November 17, 2020 to November 20, 2020 – Hearing on Phase II (Cost of Service/Pricing) of Rocky Mountain Power’s General Rate Case

Recent Commission Orders

Dominion Energy Utah’s Application for Approval of a Natural Gas Clean Air Project and for Funding for the Intermountain Industrial Assessment Center (Docket No. 19-057-33). On December 31, 2019, Dominion Energy Utah filed an application seeking Utah Public Service Commission approval for two programs under amendments to Utah’s Sustainable Transportation and Energy Plan (STEP) Act. One aspect of the proposal involved incentives to encourage a customer to replace its existing natural gas boiler with a combined heat and power unit (CHP) before the end of the useful life. A second aspect of the proposal was to provide \$800,000 per year over a three-year period to the Intermountain Industrial Assessment Center (IIAC) to be used to analyze projects for advancement under the STEP Act, including projects to support the improvement of clean air, increase the use of renewable natural gas and reducing greenhouse gas emissions, and otherwise be deemed to be in the public interest under the STEP Act. Dominion Energy Utah withdrew, without prejudice, its proposal to fund the CHP unit, and, on July 16, 2020, entered into a stipulated settlement with regard to the proposed IIAC funding aspect of its application.

On August 31, 2020, the commission issued an order approving the settlement stipulation. As approved, the settlement implements a 24-month IIAC pilot program under Utah Code Ann. § 54-20-105(3)(a)(vii). The pilot program will commence October 1, 2020 with an initial funding level of \$500,000 per year, for a total of \$1,000,000 during the pilot period. The settlement also sets forth the program's annual budget and funding disbursement schedule, pre-screening and assessment requirements, IIAC-related procedures, guidelines, and limitations, and the ability of Dominion Energy Utah to seek additional funding for the IIAC program in the future.

Dominion Energy Utah's Application for Approval to Extend Gas Service to Eureka, Utah (Docket No. 19-057-31). In December 2019, Dominion Energy Utah filed an application with the Utah Public Service Commission seeking approval for a CPCN to extend natural gas service to Eureka, Utah, and for approval to have the costs of the extension recovered through a rural expansion tracker recently passed legislation encouraging the extension of gas infrastructure to rural Utah communities. A hearing on Dominion Energy's petition was held on July 16 2020.

On August 27, 2020, the commission issued and order approving the rural expansion project to provide natural gas service to Eureka and granting to Dominion Energy Utah of a CPCN to provide gas service to Eureka.

Significant Matters Pending for Commission Consideration

Rocky Mountain Power's Application to Establish Export Credits for Customer Generated Electricity (Docket No. 17-035-61). On December 1, 2017, Rocky Mountain Power filed its application, pursuant to a prior stipulated settlement stipulation, to establish export credits for customer-generated electricity. The matter was bifurcated into two phases, with Phase I to cover Rocky Mountain Power's load research study plan, and Phase II to cover the company's proposed net billing program to provide credits to customers who export energy to the grid. On May 21, 2018, the Commission issued its order on Phase I approving a 12-month study period proposed by Rocky Mountain Power, and approving the company's study plan with the following changes: (1) requiring Rocky Mountain Power to select new samples for residential and commercial customers that either gave each member of the class an equal chance of being selected, or each member of the separate strata an equal chance of being selected; (2) increasing the sample size to accommodate the separate study of residential and commercial customers, and (3) requiring the company to collect export, import, and production data from the existing LRS study's 36 Schedule 135 participants.

A hearing on Phase II of the docket is scheduled for September 29, 2020 to October 9, 2020, and a decision on the phase is expected to be issued by the end of 2020.

Rocky Mountain Power's General Rate Case Proceeding (20-035-04). On May 8, 2020, Rocky Mountain Power filed an application requesting approval to increase its retail electricity service rates in Utah by \$95.8 million (a 4.8% increase). The rate proceeding has been bifurcated into two phases, with Phase I of the proceeding to address cost of capital and revenue requirement issues, and Phase II to address cost of service and pricing issues. A hearing

on Phase I is scheduled to take place between October 20, 2020 and November 3, 2020. The hearing on Phase II is currently set to take place between November 17, 2020 and November 20, 2020.

Washington Utilities and Transportation Commission

On August 14, 2020, the WUTC issued the second discussion draft rule for the purchase of electricity rulemaking (WUTC Docket UE-190837). Comments on the draft rule and discussion questions are due by September 14.

On September 1, 2020, WUTC issued draft rules under its Washington State's Energy Independence Act rulemaking to clarify REC purchasing practices (WUTC Docket No. UE-190652). Comments on the draft rules are due by October 1, 2020.

Federal Energy Regulatory Commission

On September 1, FERC issued an order revoking the Qualifying Facility status of a hybrid project under development by Broadview Solar, LLC. The subject facility had been previously self-certified as a Qualifying Facility with a gross capacity of 104.25 MW and a net capacity of 80 MW, but the developer subsequently sought recertification from FERC for a facility that would use a 160 MW solar array and 50 MW battery storage system while maintaining a net capacity of 80 MW. The hybrid facility was designed to optimize production from the solar array and battery storage system within the 80 MW capacity limit imposed by PURPA. In its ruling, FERC determined that PURPA and regulations implemented thereunder limit a small production Qualifying Facility to a "power production capacity" of 80 MW, stating that a facility which occasionally exceeds the 80 MW threshold is significantly different than one designed with the capability for doing so. As such, FERC overturned precedent dating from 1981 regarding the method for calculating "power production capacity," concluding that only those parasitic loads and losses listed in Section 7 of FERC Form 556 should be considered in determining a Qualifying Facility's net capacity. That, of course, means that developers may not rely on other limiting elements, such as inverters, in order to comply with the 80 MW limitation. Importantly, though, facilities that have self-certified or have granted FERC certification prior to the date of the order—even if they have included adjustments for inverters or other output limiting devices—are grandfathered and will still be considered Qualifying Facilities.

FERC released more information on its [September 30 technical conference on carbon pricing](#) in organized wholesale electricity markets. The conference will address state adoption of mechanisms to price carbon dioxide emissions, commonly referred to as carbon pricing, in regions with Commission-jurisdictional organized wholesale electricity markets. Panels will address legal considerations for state-adopted carbon pricing and RTO/ISO markets, an overview of carbon pricing mechanisms and interactions with RTO/ISO markets, and considerations for market design. Panelists will include individuals from universities, the ISOs/RTOs, the PJM Market Monitor, the Western Power Trading Forum, and various market participants. The conference will be webcast.

FERC has a [technical conference scheduled for October 27 on offshore wind generation](#) integration in RTOs/ISOs. The conference will address whether existing Commission transmission, interconnection, and merchant transmission facility frameworks in RTOs/ISOs can accommodate anticipated growth in offshore wind generation in an efficient and effective manner that safeguards open access transmission principles and to consider possible changes or improvements to the current framework should they be needed to accommodate such growth. Commissioners may participate in the technical conference.

September 4, 2020, FERC issued an order rejecting NYISO's proposed tariff revisions to update its buyer-side mitigation rules/capacity market structure to accommodate renewable energy resources as part of New York's clean energy targets. FERC found NYISO's proposal did not provide sufficient justification for prioritizing "Public Policy Resources" before "non-Public Policy Resources," independent of cost. Commissioner Glick dissented. (Docket No. ER20-1718).

The Senate Energy and Natural Resources Committee is expected to hold a hearing this week regarding the nominations of Allison Clements (D) and Mark Christie (R) to the Federal Energy Regulatory Commission.

FERC will have its monthly meeting on September 17, which may address, among other items, the following matters:

- a. Administrative proceedings on (i) the recent changes to the Commission's rehearing practice and (ii) customer matters, reliability, security and market operations
- b. FERC's Order No. 841, regarding participation of distributed energy resource aggregations in markets operated by RTOs and ISOs
- c. A rulemaking on equipment and services produced or provided by certain entities identified as risks to national security
- d. Action in MISO's proceeding regarding transmission owner self-funding initial network upgrades
- e. Action on a petition for a declaratory order by North Carolina Eastern Municipal Power Agency regarding the use of battery technology to reduce metered coincident peak billing demand